

United States District Court

**EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

R.J., a minor child, by next friends
RON J. and CINDY J.

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V.

MCKINNEY INDEPENDENT SCHOOL
DISTRICT, ET AL.

CASE NO. 4:05cv257
(Judge Schneider/Judge Bush)

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE

Came on for consideration the Report of the United States Magistrate Judge in this action, this matter having been heretofore referred to the United States Magistrate Judge pursuant to 28 U.S.C. § 636. On December 29, 2005, the Magistrate Judge entered his Report containing proposed findings of fact and recommendations that Defendant Joe Miniscalco's Motion to Dismiss be granted; that Defendant Cindy Miegel's Motion to Dismiss, and all Defendants' request for dismissal for failure to exhaust administrative remedies, be denied; and that all Defendants' Motion to Limit the Scope of Trial be granted only with respect to the Individuals with Disabilities in Education Act ("IDEA") appeal.

The court, having made a *de novo* review of the objections raised by Defendants thereto, is of the opinion that the findings and conclusions of the Magistrate Judge are correct, and the objections of Defendants are without merit. Therefore, the court hereby adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of this court. It is, therefore,


ORDERED, ADJUDGED and DECREED that Defendant Miniscalco's Motion to Dismiss is **GRANTED** and all claims against said Defendant are **DISMISSED WITH PREJUDICE**. It is further

ORDERED that Defendant Miegel's Motion to dismiss is **DENIED**. It is further

ORDERED that all Defendants' request for dismissal for failure to exhaust administrative remedies is **DENIED**. It is finally

ORDERED that all Defendants' Motion to Limit the Scope of Trial is **GRANTED** only with respect to the IDEA appeal, and the scope of trial shall not be limited with respect to Plaintiffs' remaining claims.

SIGNED this 6th day of February, 2006.



MICHAEL H. SCHNEIDER
UNITED STATES DISTRICT JUDGE